

**Amendment No. 2 to HB2649****Fitzhugh  
Signature of Sponsor****AMEND Senate Bill No. 2651****House Bill No. 2649\***

By deleting all of the language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 40-35-321, is amended by adding the following new subsection (e):

(e)

(1) When a person is arrested on or after July 1, 2006, for the commission of a violent felony as defined in subdivision (3), or the commission or attempt to commit aggravated burglary or especially aggravated burglary, such person shall have a biological specimen for the purpose of DNA analysis taken to determine identification characteristics specific to the person as defined in subsection (a). After a determination by a magistrate or a grand jury that probable cause exists for the arrest, a sample shall be taken prior to the person's release from custody. The biological specimen shall be collected in accordance with the uniform procedures established by the Tennessee bureau of investigation pursuant to § 38-6-113 and shall be forwarded by the approved agency or entity collecting such specimen to the bureau which shall maintain it as provided in § 38-6-113. The court or magistrate shall make the providing of such a specimen a condition of the person's release on bond or recognizance if bond or recognizance is granted.

(2) The clerk of the court in which the charges against a person described in subdivision (1) are disposed of shall notify the bureau of final disposition of the criminal proceedings. If the charge for which the

sample was taken is dismissed or the defendant is acquitted at trial, the bureau shall destroy the sample and all records thereof, provided there is no other pending qualifying warrant or capias for an arrest or felony conviction that would otherwise require that the sample remain in the data bank.

(3) As used in this subsection “violent felony” means:

- (A) First or second degree murder;
- (B) Aggravated kidnapping or especially aggravated kidnapping;
- (C) Aggravated assault;
- (D) Aggravated child abuse;
- (E) Robbery, aggravated robbery or especially aggravated robbery;
- (F) Carjacking;
- (G) Sexual battery, sexual battery by an authority figure or aggravated sexual battery;
- (H) Rape, aggravated rape or rape of a child;
- (I) Aggravated arson;
- (J) Attempt, under § 39-12-101, to commit any of the offenses enumerated in this subdivision (3);
- (K) Solicitation, under § 39-12-102, to commit any of the offenses enumerated in this subdivision (3);
- (L) Conspiracy, under § 39-12-103, to commit any of the offenses enumerated in this subdivision (3);
- (M) Criminal responsibility, under § 39-11-402(2), for any of the offenses enumerated in this subdivision (3);

(N) Facilitating the commission, under § 39-11-403, of any of the offenses enumerated in this subdivision (3); or

(O) Being an accessory after the fact, under § 39-11-411, to any of the offenses enumerated in this subdivision (3).

SECTION 2. For purposes of each arresting authority establishing procedures and protocols for the collection of biological specimens pursuant to this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes it shall take effect on July 1, 2006, and shall apply to any person arrested for an applicable offense on or after such date.